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REMARKS

The Final Office Action mailed July 9, 2004 and the Advisory Action mailed December 8, 2004 have been received and carefully noted. The "Request for Continued Examination" (RCE) filed concurrently herewith, the amendments herein and the following remarks are submitted as a full and complete response thereto.

A "Petition for Extension of Time" for extending the due date for filing the response by three months and a credit card payment form to cover the fee payment (\$910.00, which is less the fee previously paid for the extension) are filed with this Preliminary Amendment. The credit card payment form additionally covers the fee payment (\$790.00) for the RCE. Claims 2-4 have also been canceled and substitute claims 5-6 have been added. No additional claim fee is believed to be required. Authorization, however, is granted to charge counsel's Deposit Account No. 01-2300, referencing **Attorney Docket No. 107156-00073**, for any additional fees necessary for entry of this Preliminary Amendment and the RCE.

As mentioned above, claims 2-4 have been canceled and substitute claims 5-6 have been added. Independent claim 1 has also been amended. Applicants submit that these amendments and remarks made herein are fully supported in the Specification and the drawings, as originally filed, and therefore no new matter has been introduced. Accordingly, claims 1 and 5-6 are pending in the present application and are respectfully submitted for reconsideration.

Independent claim 1 and canceled dependent claims 2-3 were finally rejected under 35 U.S.C. § 102(e) as being anticipated by the Kitamura patent (U.S. Patent No. 6,704,421). In addition, canceled dependent claim 4 was finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kitamura patent. Based upon the cancellation of dependent claims 2-4, the

rejections with respect to these claims are now moot. Independent claim 1 has been amended. With respect to the rejection of claim 1 and insofar as such rejection can be applied to substitute claims 5-6, such rejections are respectfully traversed and reconsideration is requested.

Independent claim 1, as amended, recites an audio reproducing apparatus comprising audio reproducing device for reproducing audio information; discriminating device for discriminating sound stream attribute contained in the audio information; storing device for storing frequency character information set corresponding to the sound stream attribute; renewing device for variably adjusting the frequency character information in accordance with the sound stream attribute discriminated by the discriminating device; and control device for performing a control so that the renewing device can be variably adjusted in accordance with the frequency character information corresponding to the sound stream attribute discriminated by the discriminating device, and that the audio reproducing device can output the audio information. It is respectfully submitted that the Kitamura patent does not disclose or suggest the audio reproducing apparatus, as claimed in the present invention.

The Kitamura patent merely discloses an automatic multi-channel audio control system in which when an optical disc having recorded thereon audio information is inserted into a disc reader disc reader 14, an associated software activates an automatic multichannel equalizer controller 16 to read disc ID data. Specifically, in the Kitamura patent, the equalization template block 28 stores multichannel equalizer control values as adjusted (entered) by a user to provide user selectability based on user preferences and the automatic multichannel equalization controller 16 controls the multichannel audio processor 24 based on preset settings in the template block 28. Such is neither equivalent nor analogous to the renewing device for variably adjusting the frequency character information in accordance with the sound stream attribute

discriminated by the discriminating device and control device for performing a control so that the renewing device can be variably adjusted in accordance with the frequency character information corresponding to the sound stream attribute discriminated by the discriminating device, as claimed in the present invention.

By virtue of these features of the present invention, when an audio stream has become different from a previous one, it is possible to renew the frequency character to make it suitable for the changed audio stream, thereby ensuring an improved convenience for a user. The Kitamura patent teaches nothing about adjusting frequency character or some other parameter to render it suitable for some changed ID information or header data when a song being played is changed. Accordingly, the Kitamura patent fails to disclose or suggest the audio reproducing apparatus, as claimed

Based upon the forgoing, Applicants respectfully submit that each and every element recited within independent claim 1 is neither disclosed nor suggested by the Kitamura patent, and is therefore allowable. Reconsideration is requested.

Substitute dependent claim 5 recites an audio reproducing apparatus according to claim 1, further comprising character storing device for storing a plurality of sound stream attributes and a plurality of frequency characters; selecting device for selecting a user's desired combination from the sound stream attributes and the frequency characters; and selection storing device for storing a selected combination. Substitute dependent claim 6 recites an audio reproducing apparatus according to claim 2, wherein the control device controls the renewing device to renew a frequency character in accordance with a combination stored in the selection storing device, wherein when a discriminated sound stream attribute is not present in the selection storing device, the control device controls the renewing device to renew a frequency character in

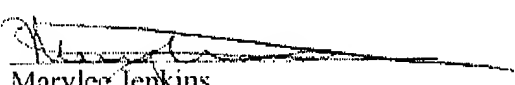
accordance with a sound stream attribute and a frequency character stored in the storing vehicle. Support for the entry of substitute dependent claims 5-6 may be found in the Specification at page 5, ls. 7-25 and page 17, l. 9 -- page 18, l. 3.

It is submitted that substitute dependent claims 5-6 are also patentable and in condition for allowance due to their dependency upon independent claim 1, since the dependent claims differ in scope from the parent claim. Dependent claims 5-6 depend from independent claim 1, and thus are further limited to additional features of the invention. Therefore, it is respectfully submitted that the dependent claims are patentable over the Kitamura patent for at least the reasons set forth above with respect to claim 1. Entry of substitute dependent claims 5-6 is respectfully requested.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact the Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this application.

Dated: January 10, 2005

Respectfully submitted.


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